

**COMMITTEE ON THE IMPACT OF
DOMESTIC VIOLENCE AND THE COURTS**
Meeting Minutes
September 13, 2011
Arizona State Courts Building
Conference Room 119 A/B
1501 W. Washington Street, Phoenix, AZ 85007

MEMBERS PRESENT:

Honorable Emmet Ronan, Chair	Ms. Patricia Madsen, Esq.
Honorable Keith D. Barth	Ms. Dana Martinez
Ms. Allison Bones	Honorable Wendy Million
Honorable Cathleen Brown Nichols - <i>telephonic</i>	Ms. Barbara Duff - <i>proxy for</i>
Ms. Cathy Clarich	<i>Chief Jerald L. Monahan</i>
Ms. Joi Davenport	Ms. Marla Randall - <i>telephonic</i>
Ms. Pegg Darrow	Ms. Kristine Reich
Ms. Gloria E. Full	Honorable Carol Scott Berry
Honorable Carey S. Hyatt	Ms. Andrea K. Sierra
Honorable Joseph P. Knoblock	Detective Eugene J. Tokosh

MEMBERS ABSENT:

Dr. Kathy S. Deasy	Ms. Heidi Muelhaupt
Honorable Lynn Fazz	Captain David Rhodes
Ms. V. Michele Gamez	Ms. Renae Tenney
Professor Zelda Harris	Ms. Tracey J. Wilkinson
Ms. Leah Meyers, M.S.W.	

PRESENTERS / GUESTS:

Mr. Gregory Neville	Mr. Douglas Wilkey
Mr. Dan Levy	Ms. Carol Mitchell
Dr. Kathleen Ferraro	Ms. Melinda Hardman
Mr. Stephen Grams	

STAFF:

Ms. Kay Radwanski	Ms. Tama Reily
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I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the September 13, 2011, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC), was called to order by Judge Emmet J. Ronan, chair, at 10:11 a.m.

Introductions were made around the table.

New members in attendance were welcomed and introduced themselves:

- Ms. Peggy Derrow, with Alternatives Counseling Services, Inc., in Cochise County
- Ms. Kristine Reich, private family law attorney with Donison Law Firm
- Judge Keith Barth – Justice of the Peace in Santa Cruz County

The following re-appointees were welcomed back:

- Judge Joseph Knoblock, Benson Justice Court, Cochise County
- Judge Cathleen Brown Nichols, Flagstaff Justice Court, Coconino County
- Professor Zelda Harris, University of Arizona, Pima County

Departing members, Ms. Bridget Humphrey and Dr. Joan Fox, were thanked for their dedication and service to the committee.

B. Approval of Minutes

The minutes from the May 10, 2011, CIDVC meeting were presented for approval.

MOTION: To approve the May 10, 2011, meeting minutes as presented. Motion seconded. Approved unanimously.
CIDVC-11-016

II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

A. Domestic Violence Fatality Report Template Workgroup – Governor’s Commission to Prevent Violence Against Women

Mr. Dan Levey, Director of Victim Services at the Attorney General’s Office, reported on a new template available for domestic violence fatality review annual reports in Arizona. Mr. Levey provided some background on how the report template came about and updated the committee on the fatality review teams around the state. The purpose of the template is 1) to provide a tool for new teams who have not completed a report, and 2) to have a standard reporting format that may eventually turn into a comprehensive statewide report of Arizona domestic violence fatalities. He noted that Chief Jerald Monahan, CIDVC member and chair of the Governor’s Commission to Prevent Violence Against Women, will be sending the templates out to the chairs of the fatality review teams.

Mr. Levey introduced Dr. Kathleen Ferraro, chair and professor of Sociology and Social Work at Northern Arizona University (NAU), and her co-presenter, Mr. Greg Neville, NAU graduate student of Applied Criminology with a focus on domestic violence and fatality review, member of the Coconino County Fatality Review Team. Dr. Ferraro spoke about the growth of fatality review teams around the state and the need to provide guidance on the completion of the annual fatality review reports. The template helps the teams formulate their annual reports. It is not a mandate for teams to follow; however, it is a suggested report format. Dr. Ferraro reviewed the suggested processes for submitting the template reports and the content requirements of the various report sections. She stressed the importance of confidentiality in the reports because they are open to the public. Examples of reports and other useful information can be found at the [National](#)

[Domestic Violence Fatality Review Initiative website](#). Finally, Mr. Neville reviewed items that can be added as appendices, essentially to bring everything together. Dr. Ferraro invited members with questions to contact her via email at Kathleen.Ferraro@nau.edu.

B. The Judiciary and DV Offender Treatment: A Coordinated Approach

Ms. Gloria Full, member, introduced Mr. Stephen Grams and Mr. Douglas Wilkey, with SAGE Counseling. The purpose of their presentation related to a discussion at the May CIDVC meeting surrounding the requirements for licensure of batterer treatment programs and focused on the domestic violence offender and substance abuse treatment programs. Mr. Grams provided some background on SAGE and reviewed the older and contemporary paradigm approaches. He emphasized the importance of courts and counseling agencies working together to achieve success in these situations. He also discussed some specific steps used in treatment programs to counter behavioral patterns encountered in this group of individuals. However, he pointed out that individuals with histories of criminal behaviors or antisocial types are rarely successful in these programs.

During discussion, Mr. Grams agreed that it is effective to monitor an offender with monthly or other periodic appearances to assess how treatment is progressing. He noted that SAGE provides reports to the courts; however, treatment centers are not required to do this. He does not recommend accelerated treatment in any cases.

C. Translated Protective Order Documents

Ms. Carol Mitchell, AOC Court Services Division, reported on the newly released translated protective orders that are available in Arabic, Chinese, Spanish, and Vietnamese. This project was part of a larger effort to improve access to the courts for non-English speakers. Ms. Mitchell briefly explained the methodology used in determining the most appropriate languages to include in the development of the forms. The intent of the translated documents is to aid in victims' understanding of the protective order form and its requirements. However, the form must still be completed in English. The forms are available to the public at [Translated Protective Order Forms](#) on the Arizona Judicial Branch website.

D. Barriers to Court Access in Obtaining Protective Orders

Judge Carey Hyatt, member, Superior Court in Maricopa County, presented an issue for discussion concerning the barriers in access to justice in the realm of justice courts, where victims with children have been instructed to go to the superior court to obtain protective orders. Specifically, she spoke about a case in which the petitioner had no family court case, pending or otherwise. The petitioner was directed to go to the superior court simply because she had a child in common with the alleged abuser. Judge Hyatt said she hoped the committee could play a role in resolving this issue.

There was lengthy discussion on this matter because of the numerous facets of the problem. Judge Wendy Million stated it is clearly a judicial education issue and there should be a push for mandatory DV training. Ms. Allison Bones, Arizona Coalition Against Domestic Violence, suggested that the Court Watch Program could help identify

trends and gauge the scope of the problem. Ms. Radwanski mentioned a new software program, Camtasia, that could be used to develop a training module on the issue, which judges could then use in a 'distance learning' setting. It was suggested that the Best Practices Workgroup work with Kay on this project. Judge Kathleen Nichols suggested speaking with Mr. Jeff Schrade, or Mr. Paul Julien, AOC Education Services, about developing training as part of the annual Justice of the Peace conference. Judge Keith Barth recommended adding something like a flow chart to the benchbooks. Judge Million added that the benchbooks are currently being updated so something of this nature could possibly be added.

E. State Bar Proposal to Amend ARPOP Rule 10

Ms. Patricia Madsen, member, Community Legal Services, raised an issue regarding the Arizona State Bar's Family Law Practice and Procedure Committee's proposal to amend ARPOP Rule 10. The proposal would add the statement "THIS IS NOT A COURT ORDER" to petitions for protective orders. The intent is to eliminate confusion between the actual protective order and the petition. Ms. Madsen is seeking feedback from the committee to report back to the state bar.

Ms. Radwanski pointed out that there is a process in place to change the protective order forms, which would be through the Arizona Code of Judicial Administration, rather than a rule change. This would allow CIDVC's Forms & Processes Workgroup to closely review the potential change and propose appropriate recommendations. Upon discussion, members agreed on this course of action. Ms. Radwanski stated she will contact Judge Finn to set up a workgroup meeting.

F. Amendments to IAH and IAWH Definitions

Ms. Radwanski presented on SB1363, which passed during the regular legislative session and added language to the definition of harassment as it applies to Injunctions Against Harassment and Injunctions Against Workplace Harassment. The new definitions include the activities of unlawful picketing, trespassory assembly, unlawful mass assembly, concerted interference with lawful exercise of business activity, and engaging in a secondary boycott, and defamation. There is currently a federal suit to stop the bill from being enforced. Arguments are to be heard on September 15, 2011.

G. SCR 123 and Access to Unserved Protective Order Cases

Ms. Radwanski discussed whether unserved protection orders are public record under SCR 123, which governs public access to court records. Ms. Melinda Hardman, AOC Court Services Division, subject matter expert on public access to court records, was present during discussion as she will be filing a rule petition related to Rule 123 technical items in January 2012. Rule 123 does not address this issue specifically, and Ms. Radwanski asked members for feedback as to whether the rule should be clarified. Lengthy discussion ensued. Members agreed it is of concern if unserved orders are public record because the unserved order may be held up to one year, giving the defendant the opportunity to become aware of its existence and retaliate. The issue is complicated by several factors including court processes and the availability of both paper and electronic records. The committee consensus was that the matter goes beyond

Rule 123 and warrants additional discussion. Therefore, it was decided to initiate an ad hoc workgroup, *Public Access to Court Records Workgroup*, to further examine the issue. Volunteers for the workgroup were Cathy Clarich, Allie Bones, Dana Martinez, Judge Barth, and Judge Ronan.

H. Workgroup Reports

- *Best Practices* – Judge Million reported the group will be working with Ms. Radwanski on the judicial training modules regarding the protective orders issue. Also, they will possibly begin a project to educate judges on lethality and Judge Million has enlisted the assistance of Professor Messing from ASU, who is willing to train judges on this issue.
- *Batterer Treatment Program* – (Judge Hyatt, reporting for Gloria Full) The workgroup will enlist the assistance of Ms. Radwanski to set up another meeting regarding offender treatments prior to the November CIDVC meeting. They would like to engage the help of SAGE Counseling on best practices and develop some protocol for judges to use on the bench in terms of identifying legitimate certificates of treatment completion.
- *Forms & Processes* – Ms. Cathy Clarich reported for Judge Finn, who recently had a conference call with Chief Monahan regarding the defendant service forms. She continues to work on getting additional information from law enforcement to assist in completion of the forms. Her plan is to have the forms finalized by the next CIDVC meeting.

Judge Million proposed the creation of another workgroup to have a long-term discussion about whether the domestic violence law can be strengthened by narrowing it. Ms. Bones added that any potential legislative proposals would be far in the future – possibly the 2013 session. Judge Million volunteered to chair the workgroup, which would be titled the *13-3601 Review Workgroup*. Others volunteering to participate on the workgroup were Eugene Tokosh, Allie Bones, Joi Davenport, Dana Martinez, Cathy Clarich, Andrea Sierra, Pegg Derrow, and Patricia Madsen.

III. OTHER BUSINESS

A. Announcements

Ms. Radwanski discussed an email she received that revealed a problem with people getting conflicting information when going to the courthouse. The concerns this individual shared in the email were that one can be seen as a victim in the family violence prevention center, but once in the family court, that same victim can be seen as the uncooperative parent and possibly lose custody of the children because of actions taken to protect them.

Ms. Radwanski also commented on an opinion, U.S. v. Sanchez, from the 9th Circuit Court of Appeals. In Sanchez, a Brady conviction was overturned because of the language on the court order being viewed as insufficiently explicit. Ms. Radwanski noted that she will be working with the AOC's Adult Probation Division to strengthen the language on sentencing and probation forms. Changes to the civil forms can be accomplished through an administrative directive.

B. Next Meeting Date

Tuesday, November 8, 2011
10:00am to 2:00pm
Arizona State Courts Building
Conference Room 119 A/B

C. Call to the Public

No public comments offered.

Meeting was adjourned at 2:15pm.